

UNITED STATE DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C. A. NO.: 04-30149-MAP

DANIEL BOURQUE,)
Plaintiff)
v.)
THOMAS A. MOERLER,)
Defendant)

FILED
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SEP 7 2004
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**MOTION OF THE DEFENDANT, THOMAS A. MOERLER TO DISMISS
PLAINTIFF'S COMPLAINT**

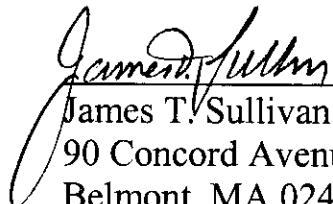
Pursuant to Fed. R. Civ. P. 12 (b) (2), the defendant, Thomas A. Moerler, moves this court to dismiss the plaintiff's complaint. As reasons therefore, the defendant, Thomas A. Moerler, assigns as follows:

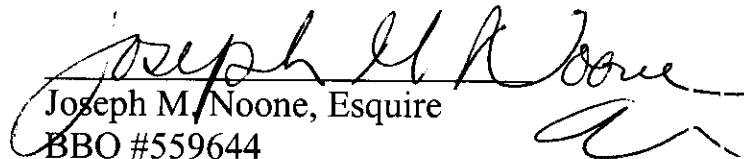
1. He is a citizen of New York, residing at 141 Spiral Road, Holtsville, N.Y.
2. He has not been served with process within this Commonwealth.
3. He has no jurisdictional activities in Massachusetts.
4. He was not the operator of a Motor Vehicle in Massachusetts; nor is it alleged that he was the operator of a Motor Vehicle in Massachusetts.
5. He did not operate a Motor Vehicle in Maryland where the Plaintiff, in his Complaint, alleges the accident occurred.
6. In further support of this motion, the defendant attaches the Memorandum of the Defendant, Thomas A. Moerler, in Support of His Motion to Dismiss for Lack of Personal Jurisdiction.

WHEREFORE, the defendant, Thomas A. Moerler, moves the Complaint be dismissed.

Defendant, Thomas A. Moerler
By his Attorneys,

AVERY DOOLEY POST & AVERY, LLP

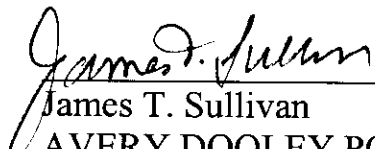

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CERTIFICATE OF SERVICE

I, James T. Sullivan, hereby certify that I have this 2d day of September 2004, forwarded a copy of the foregoing document to all counsel of record by mailing same postage prepaid to:

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Springfield, MA 01115


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